S.B. CIVIL WRIT PETITION NO.3593/2005

M/s. Hari Ram Bhanwar Lal

vs.

Income Tax Officer Ward-2(1), Bikaner and others.

Date : 12.7.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. Suresh Ojha, for the petitioner.

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Heard learned counsel for the petitioner.

The petitioner was served with a notice under Section 143(2) of the Income Tax Act, 1961 (for short “the Act”).

According to learned counsel for the petitioner, the reasons for issuing notice under Section 143(2) of the Act has not been recorded by the assessing authority and the petitioner submitted several representations to the authorities for supplying copies of the reasons. It is also submitted that as per the circular issued by the Central Board of Direct Taxes dated 27.9.2004, the assessing authority could have issued under Section 143(2) of the Act within three months from the date of filing of the return and in this case, the assessing authority has issued notice on 16.3.2005 which is apparently beyond the prescribed period.

It is also submitted that in view of the above reasons, the assessing authority has acted wholly without jurisdiction.

It appears from the documents placed on the record that the petitioner submitted certain applications before the assessing authority for supply of reasons and those applications have not been decided by the assessing authority yet. The fact when the petitioner's case was selected for scrutiny has also not come on record and, therefore, it is difficult to find out whether the petitioner's case for scrutiny was selected within the period of three months from the date of filing of the return.

In view of the above, the petitioner may submit his preliminary objections/representation before the assessing authority who shall pass appropriate order on that by recording brief reasons.

With these observations, this writ petition is disposed of.

(PRAKASH TATIA), J.

S.Phophaliya